



# Litigation Budgets

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Litigation Section CLE

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# Presenters

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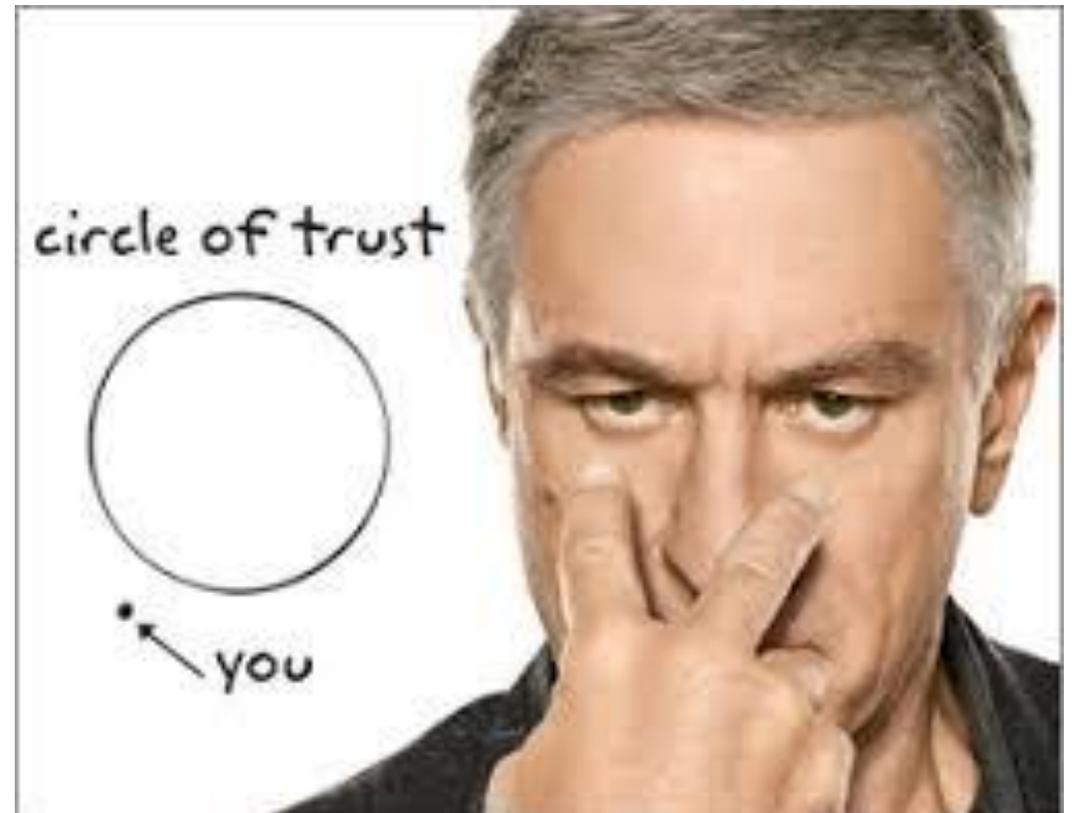
# The Client Perspective

- Informative
  - Better understanding of the case
  - Quick snapshot
  - Saves client time
- Accountable
  - Helps with internal budgeting process
  - Accountability with the Business
  - A growing trend with inhouse counsel



# The Client Perspective

- First step of building the relationship
  - Trust
  - Communication
- Be Realistic
  - Take the time to think about strategy
  - Don't overbudget or underbudget
- Update as Needed
  - Understand that things change – just tell us as soon as you can
  - Communicate, communicate, communicate



# The Litigator Perspective

**Budget Early**

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graph TD; A[Budget Early] --> B[Budget Often]; B --> C[Happy Client, Happy Something That Rhymes with Client];
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**Budget Often**

**Happy Client,**

**Happy Something That Rhymes with Client**

(yes, there will be  
memes)



# Preparing the Budget

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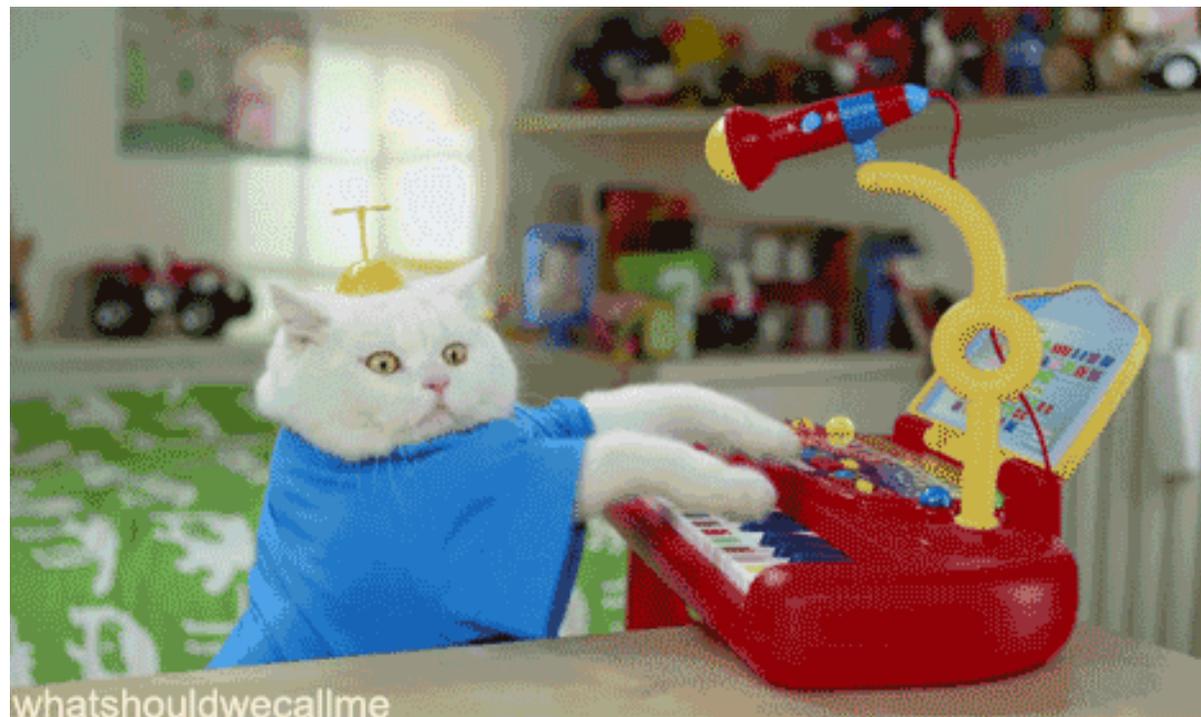
## What Kind of Budget?

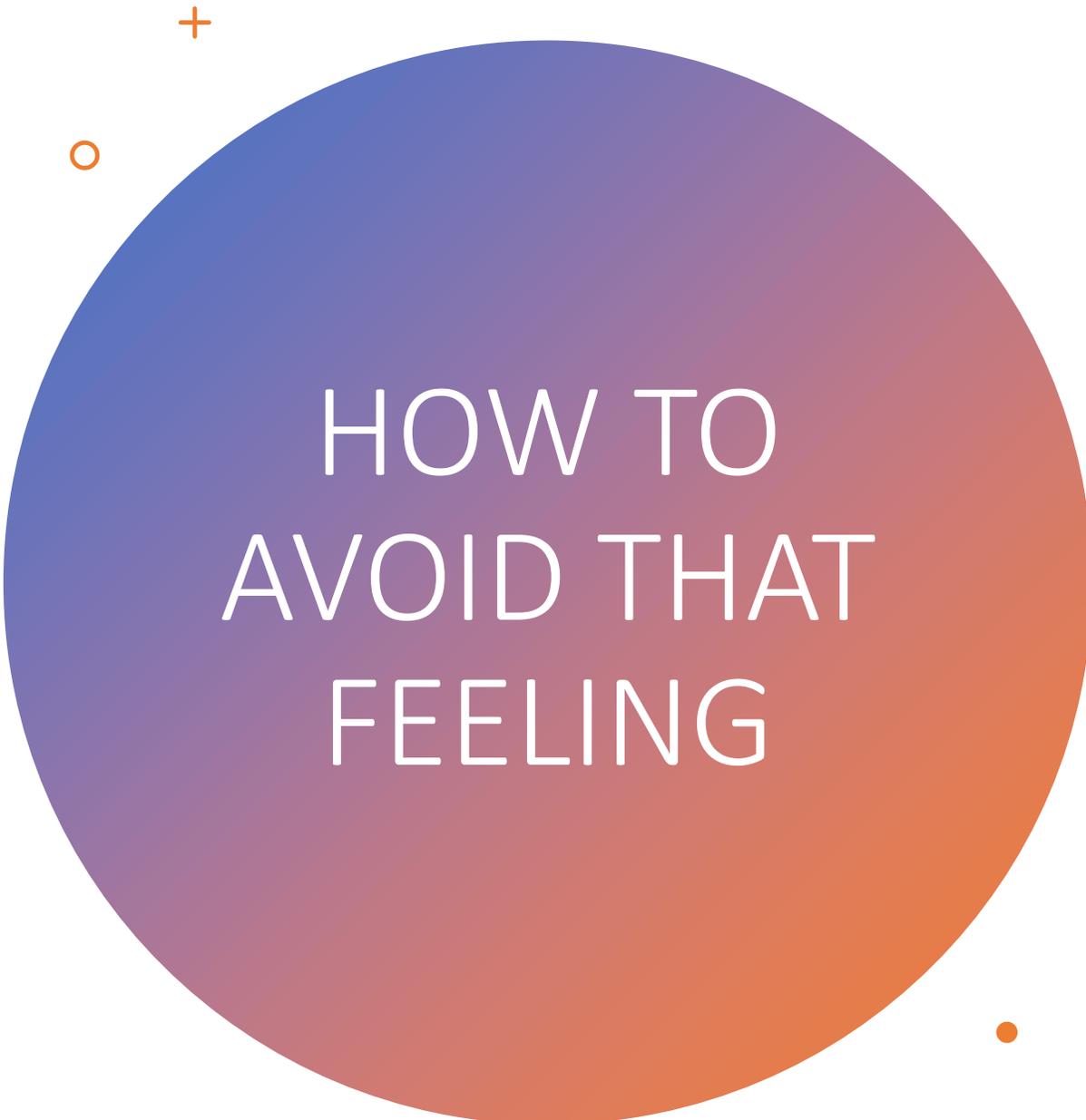
- Ask the client at the start!
- The Three Clients You Meet in Billing Heaven:



# Dos and Don'ts For Younger Attorneys

How it feels doing a budget when you're a new lawyer:



A large circle with a blue-to-orange gradient is centered on the left side of the slide. In the top-left corner, there is a small orange plus sign and a small orange circle. In the bottom-right corner, there is a small orange circle. A vertical line on the right side of the slide transitions from blue at the top to orange at the bottom.

# HOW TO AVOID THAT FEELING

- **DO** read the Billing Guidelines.
- **DO** read the Billing Guidelines again.
- Oh, electronic billing, with pre-filled rules? **DO** read the Billing Guidelines.
- **DON'T** assume you have the most current version – ask!
- **DO** use the client's preferred budget form (if there is one).
- **DON'T** *only* rely on prior budgets.
- **DO** figure out who's doing what (senior/junior/paralegal, & local/national).
- **DO** complete your initial case evaluation *before* starting your budget.
- **DON'T** underbudget or overbudget.

# Dos and Don'ts For Senior Attorneys

How it feels reviewing a budget when you're a senior lawyer:





# HOW TO AVOID THAT FEELING

- **DO** read the Billing Guidelines.
  - **DO** read the Billing Guidelines again.
  - **DO** provide information about similar cases to preparing attorney.
  - **DO** discuss assumptions with preparing attorney (# of depos, #/type of experts).
  - **DON'T** just look at the total.
  - **DON'T** assume preparing attorney knows who will be responsible for tasks.
  - **DO** invest the time, even if it's not billable.
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# Contingency/Pro Bono/Low-Bono/Etc.

- Costs
  - Filing fees
  - Depositions
  - Experts
  - Mediation
- If routine items, consider switching from hourly to flat-fee, for predictability.





# Updating the Budget

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	Series 1	Series 2
Jan	9.36	5.52
Feb	8.27	7.29
Mar	5.42	0.24
Apr	0.70	9.99
May	0.35	0.91
Jun	8.01	8.08
Jul	8.54	8.11
Aug	7.79	5.70
Sep	8.17	7.19
Oct	9.71	5.90
Nov	8.45	2.43
Dec	6.16	



	Series 1	Series 2
Jan	8.17	8.52
Feb	0.95	7.74
Mar	1.95	
Apr	2.09	
May	2.73	
Jun	3.48	
Jul	4.23	
Aug	7.56	
Sep	5.90	
Oct	2.43	
Nov		
Dec		



# When and Why

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IN CONJUNCTION  
WITH PERIODIC  
REPORTING



AT REQUEST OF  
CLIENT/ADJUSTER



NEW CASE  
DEVELOPMENTS  
(E.G., EXPERT  
DISCLOSURES,  
POST-SJ)



JUST BECAUSE

# Sometimes, Cases Go a Different Direction Than Anticipated



When  
Updating,  
Think  
Longview

- Example: interlocutory appeals
- Not only the costs of appeal, but broader impact on case.
- A Tale of Two Interlocutory Cases:
  - Quigley v. Kemp, 162 Idaho 408 (2017) – Non-testifying standard of care expert.
  - Tucker v. State of Idaho, et al., *pending* – Standard re: proof of injury on SJ.

# Experts



- One of the hardest items to budget.
- And one that rarely has “good” surprises.
- So go ahead and put them on a budget too!
- Phases and/or lifetime.

**MARTY, WHATEVER HAPPENS**



**DON'T EVER GO TO 2020**

*Budgeting  
... In the  
Future!*

# COVID

- General consideration: what technological advances forced by COVID will stay? (spoiler: Zoom & travel)
- How to address evolving client expectations in budgets:
  - If there are guidelines, again – make sure you have the most recent.
  - Identify nuances: judges/mediators that will still require in-person attendance.
  - Guidelines or no, figure it out early; perhaps add “Assumptions” to budget, e.g.:
    - “Assumptions: The above budget is based upon the following assumptions:
      - 1) In-person for all party/fact witness depositions (8) and related travel;
      - 2) In-person for all expert depositions (4) and related travel;
      - 3) Remote attendance (Zoom, Webex) for all hearings other than SJ and trial;
      - 4) In-person for mediation (attorney only), all others remote.”

# Idaho Civil Justice Reform

- Final report:  
<https://isc.idaho.gov/links/Civil%20Justice%20Task%20Force%20Final%20Report%20Combined%20A.pdf>
- Goal to cap discovery should translate to better refinement of budgets.

<b>DISCOVERY TYPE</b>	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
<b>Interrogatories</b>	5	10	20
<b>Requests for Production</b>	5	10	20
<b>Requests for Admissions</b>	10	20	40
<b>Total Hours of Fact Depositions</b>	5	15	30

- Experts too! Depositions vs. reports, 7-hour depo cap.
- Stay tuned!

**End of Presentation**



**ANY QUESTIONS?**

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Thank you!

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